

STATEMENT OF SENATOR JOHN McCAIN
CHAIRMAN, SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION
FULL COMMITTEE HEARING
ON S.2255 EXTENSION OF THE INTERNET TAX MORATORIUM
APRIL 12, 2000

- C I am pleased to welcome all of our witnesses this morning. We can expect a diversity of views and opinions on one of the most important issues facing us this session, the future of the Internet and e-commerce transactions. I believe that we are at a critical juncture in determining the future regulatory scheme under which the new economy will either continue to grow and prosper, or will be thwarted by government bureaucracy, taxation and shortsighted greed.
- C Our Founding Fathers certainly did not have the Internet in mind, but nevertheless understood the potential dangers and pitfalls of states taxing and regulating interstate commerce. That is why our Constitution reserves the power ...to regulate Commerce among the several states.® The purpose of federal power over interstate commerce is to ensure that one or more states do not unduly burden the transaction of interstate transactions. The Internet is the epitome of interstate commerce. If each state and local jurisdiction attempts to impose its own business regulations and taxes to it, the opportunities presented by this new economic engine will be destroyed.
- C It is important to look at the full picture of our economy is assessing the impact of taxation on the Internet and e-commerce. The Internet is filled with web sites of small businesses, businesses that are expanding in ways which would never have before been economically feasible. One of our witnesses today, Mr. Morse, will be able to give us a reality check as to how the Internet has afforded him an opportunity to compete with much larger companies. The Internet is the last frontier for the small business entrepreneur to develop a business and compete without massive amounts of investment capital. His small business which has historically had a limited market for its goods now has a website that allows him to market and sell to people all over the country - even all over the world.
- C Mr. Morse, like other small businessmen and women benefit from the freedom of the Internet, and the country benefits from their success. When a small business increases its sales and revenues, it needs to hire more employees, and it pays taxes on the increased revenues. And the newly hired employees pay taxes on their wages. The state and local governments benefit, not only from the additional taxes paid on the revenues, but in the economic benefits of additional jobs and a growing economy.
- C The potential burden of complying with tax regulations and the paperwork involved under current law for as many as 7,500 estimated taxing units in this country would overwhelm many businesses, especially small businesses. The cost of complying with multiple states= filing and

regulatory requirements would in many instances exceed the amounts collected and transmitted. A multi-state company currently files many tax returns. AT&T has informed the Committee staff that last year it completed approximately 99,000 separate tax filings.

- C Under current law, a state can require businesses who have a nexus with the state to collect sales and use taxes. The moratorium does not disrupt this existing law, nor would an extension of the moratorium. The Supreme Court has found that businesses with a physical nexus to a state have created a relationship with that state sufficient to submit themselves to the regulatory and taxing authority of that state. In essence, the business becomes a citizen of the state, and its transactions with other citizens of that state are *intrastate* in nature, thus there is no burden on interstate commerce.
- C By contrast, the essence of what the tax and spend advocates who oppose this legislation demand is 50 state jurisdiction over every Internet business - large and small - regardless of any other connection to each state. They advocate that a Vermont business man such as Mr. Morse collect sales taxes and comply with the tax regulations of every state and local jurisdiction in the country. Where does this expansive jurisdiction lead?
- C Does such an expansive jurisdiction also result in potential liability in each state for non-compliance or mis-compliance with state regulations? What about business licenses, occupational fees, occupational or retail licensing regulations, blue laws?
- C How do we ensure that in the zeal to collect more money to permit even more expansive governments we protect the privacy of the consumers? How does imposing more regulatory burdens affect competition in the marketplace? What impact does increasing the regulatory and tax burden on Internet commerce have on rural, handicapped and low income consumers? How does it affect our trade opportunities with other countries?
- C We need to consider whether the macroeconomic benefits of the new economy will outweigh the potential losses in direct revenues. We must ensure a level playing field for *all* venues of commerce, not simply create a new remote sales tax system. We must simplify the overwhelming morass of tax rules, regulations and paperwork so that opportunities for new or small businesses are not lost in complex and archaic bureaucracy.
- C We need to reexamine the level of services which the public wants to be provided by government and determine how to provide necessary revenue to accomplish the people's will. We need to ensure that taxation is not simply imposed to increase government bureaucracy.
- C I am looking forward to hearing from the witnesses on all of these issues. It is clear that these are complex issues which will require extensive investigation, analysis and debate. The Commission established by the Internet Freedom Act did not reach consensus, nor did it resolve the multitude of issues presented by the new framework of interstate commerce which

the Internet presents. I do not see how we can arrive at consensus on these critical issues between now and October of next year, which is why I have proposed a five-year simple extension of the current moratorium. The extension would not affect the current nexus rules. It would not affect the grandfather provisions. It is a simple extension of the status quo.

- C It had been my intent to include S.2255, the five-year moratorium extension legislation on the committee mark-up tomorrow. The advocates of increasing the tax burden on the public have prevailed in having it removed from tomorrow's agenda so that they can look into this matter further. However, I want to emphasize, this is critical legislation, it is in the best interest of our nation's economic prosperity to bring it to the full Senate. Therefore, I intend to include it in a future mark-up, and ensure that the Senate is permitted to debate these issues fully.